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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

ARAJ, MICHAEL J

ART UNIT

PAPER NUMBER

3775

MAIL DATE

DELIVERY MODE

06/24/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Claim Objections

Claim 19 is objected to because of the following informalities: Claim 19, line 5 it appears that there is a misspelling. "the surgical cable together so s to form" should be 'the surgical cable together so as to form. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

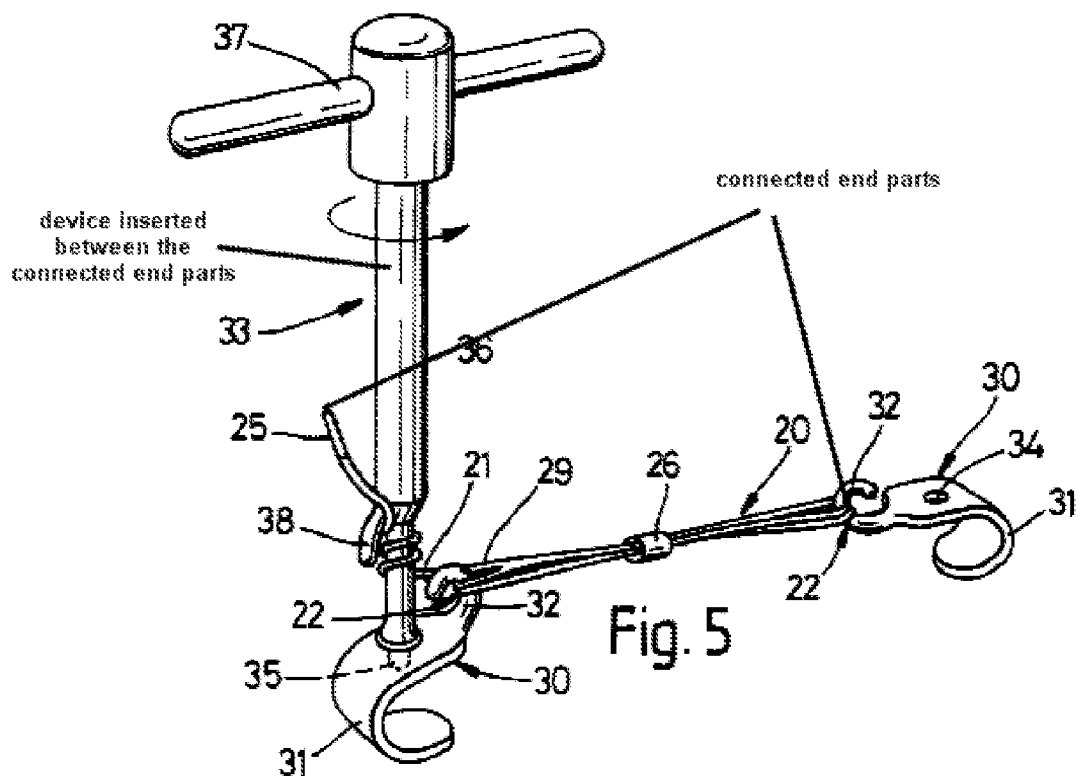
A person shall be entitled to a patent unless –
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 6, 7, 13, 15, 17, 19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Bevan et al. (U.S. Patent No. 5,725,582).

Bevan et al. disclose a method for tying together objects (31) including laying a surgical cable made of a biocompatible/polymer fiber, having two end parts, around at least part of the objects to be tied together, wherein the cable is twisted yarn having an eye/knot (29) at least on of the end parts; connecting the end parts of the cable together so as to form a closed loop; inserting a device between the connected ends parts of the closed loop and the bone parts to be fixed (see Figure 5 below); twisting the device so as to exert a torsion force on the end parts to thereby responsively bring the cable under tension required for tying together the objects with the help of a device (33); and locking the tensioned cable (26) against the influence of forces acting counter to the

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exerted torsion force thereon. It is seen that two ends have eyes with can be seen in Figure 5 (29 and adjacent to 22). The drawing force exerted on the cable is allowed due to the eyes of the cable when the device is twisted. The method fixed two vertebrae.



Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 18 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bevan et al. (U.S. Patent No. 5,725,582).

Bevan et al. disclose the claimed invention except for the fiber being of a high performance high molecular weight, high performance fibers and polyethylene fibers having a tensile strength of at least 1.8 Gpa and a modulus of at least 60 Gpa. It would have been obvious to one having ordinary skill in the art at the time the invention was made to the device of Bevan et al. with these materials having these features, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Claims 8-10, 16 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bevan et al. (U.S. Patent No. 5,725,582) in view of Crouch et al. (US Patent Number 4,788,814), previously cited by examiner.

Bevan et al. disclose the claimed method except for the loop of fibers being closed by a splice, the splice comprising an air splice and the two end parts being connected by a splice. Crouch et al. disclose a method using air splicing and teach the use of air splicing to connect the trailing end to the leading end of the yarn (see abstract). It would have been obvious to one skilled in the art at the time the invention was made for the method of Bevan et al., to include the loop of fibers being closed by a splice, the splice comprising an air splice and the two end parts being connected by a

splice, in view of Crouch et al., to connect the trailing end to the leading end of the yarn. In addition, splicing /air splicing is well known in the art.

Response to Arguments

Applicant's arguments filed on 3/17/2009 have been fully considered but they are not persuasive. Please see rejection above with newly added figure 5.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL J. ARAJ whose telephone number is (571)272-5963. The examiner can normally be reached on M-F 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Barrett can be reached on 571-272-4746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael J Araj/

Examiner, Art Unit 3775

/Thomas C. Barrett/

Supervisory Patent Examiner, Art Unit 3775